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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/778,052	02/06/2001	Thomas Steinhauser	785989-00062 (8A04-BD-1-1)	6217
7590 10/07/2003				
Thomas A. Hodge Baker, Donelson, Bearman & Caldwell Suite 900 Five Concourse Parkway Atlanta, GA 30328		EXAMINER WYROZEBSKI LEE, KATARZYNA I		
		ART UNIT 1714		PAPER NUMBER
DATE MAILED: 10/07/2003				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/778,052

Applicant(s)

STEINHAUSLER ET AL.

Examiner

Katarzyna Wyrozebski Lee

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☒ Claim(s) 23-24 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

In view of the applicant's amendment and the declaration provided by Dr. Friedrich Goffing, a co-inventor of the prior art applied against present claims following non-final office action has been necessitated. The declaration of Dr. Goffing hereby overcomes any 103 rejection that would otherwise be applied against present claims. The amendment also overcomes obviousness double patenting rejection of record

During short discussion on Friday October 3, 2003 the examiner indicated that the present invention is in condition for allowance. The examiner regrets any inconvenience that this might have cause.

In the last office action, the examiner indicated that claims 1-3, 6-14 and 17-22 are rejected over the prior art of HEEL (US 5,094,797) and that claims 4-5, 15-16 and 23-24 are obvious over the same prior art of HEEL. After careful reconsideration, the examiner admits to making a mistake of not rejecting claims 4-5 and 15-16 under 102 rejection. Claims 4-5 and 15-16 should have been rejected over the prior art of HEEL in 102(b) rejection for following reasons:

The prior art of HEEL recites basically three types of monomers, which are utilized with unsaturated polyester. These monomers are vinyl aromatic monomers such as styrene, acrylic monomers and vinyl non-aromatic monomers such as vinyl acetated. The acrylic monomers are mono acrylics and mono methacrylics and the number of the monomers listed is significant. Although the prior art of HEEL discloses that the preferred monomers are styrenes, the examiner

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has to consider the entire disclosure. The 102 (b) rejection over the prior art of HEEL is hereby re-stated.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Heel (US 5,094,797).

The prior art of Heel claims composition comprising a) unsaturated polyester, b) monomer reactive with the polyester, c) thermoplastic polymer, d) color pigment and customary additives. The disclosed composition is utilized to make fiber glass reinforced SMC's by injection molding.

The auxiliary additives of the claim 1 of the prior art of Heel are off course, fibers, color stabilizers, fillers and initiators.

The fillers of the prior art of Heel include kaolin, quartz, mica, dolomite, metal powders, talc and the like.

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Fibers besides glass fibers listed in the examples include carbon fibers as well. Pigment as required by claim 3 of the prior art of Heel is carbon black. Carbon black can be utilized in the amount of 0.1-15% (col. 3).

In addition the prior art of Heel discloses monomers, which are reactive with the unsaturated polyester. The examples listed in the prior art of Heel teach styrene monomer. The disclosure of the prior art of Heel, however; in addition to styrene teaches use of monomers based on acrylates and methacrylates.

In the light of the above disclosure, the prior art of HEEL anticipates requirements of the claims rejected above.

3. Claims 23 and 24 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The prior art of HEEL also teaches monomers utilized to form an unsaturated polyester. These monomers, especially glycol component recite ethylene glycol and neopentylglycol. Although the examples of the prior art of HEEL teach use of a mixture of two different glycol components, the specification teaches that ethylene glycol and neopentylglycol can also be utilized. The prior art of HEEL does not disclose the percentage of ethylene glycol and neopentyl glycol together utilized in formation of unsaturated polyester.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Katarzyna Wyrozebski Lee whose telephone number is (703) 306-5875. The examiner can normally be reached on Mon-Thurs 6:30 AM-4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on (703) 306-2777. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.



KIWL
PRIMARY EXAMINER
October 6, 2003